CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	<u> </u>	Force		Discourt.	U.S.
Kaitlin Campbell		Squad #13	201702651		Abuse		O.L.	✓ Injury
Incident Date(s)		Location of Incident:	•	Pr	recinct:	18	Mo. SOL	EO SOL
Wednesday, 04/05/2017 10:50 AM	Í	Intersection of Flatbush Fulton Street; Transit E stationhouse			88	10	0/5/2018	10/5/2018
Date/Time CV Reported		CV Reported At:	How CV Reported:]	Date/Time	Rece	eived at CCI	RB
Wed, 04/05/2017 5:02 PM		CCRB	Call Processing System	1	Wed, 04/0	5/201	7 5:02 PM	I
Complainant/Victim	Type	Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POF Kathi Arias	08238	927050	TB DT30					
2. POM Ryan Berls	00977	940970	TB DT30					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Robert Carbone	25729	945553	TB DT30					
2. POM Carmine Taverna	21057	943863	TB DT30					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A.POM Ryan Berls	Force: Police Officer Ryan Berls used physical force against at the intersection of Flatbush Avenue and Fulton Street.							
B.POF Kathi Arias	Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street.							
C.POF Kathi Arias	Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street.							
D.POM Ryan Berls	Force: Police Officer Ryan Berls restricted § 87(2)(b) s breathing at the intersection of Flatbush Avenue and Fulton Street and at the Transit Bureau District 30 stationhouse.							
E.POM Ryan Berls		olice Officer Ryan Berls vehicle at the Transit Bouse.						

Case Summary On April 5, 2017, § 87(2)(b) called the CCRB to file this complaint on behalf of her sixteen-year-old daughter § 87(2)(b) On April 5, 2017, at approximately 10:40 a.m. \$87(2)(b) crawled under a turnstile at the Nevins Street 2-3-4-5 train subway station and was approached by Police Officers Kathi Arias and Ryan Berls of Transit Bureau District 30 (TD30). In the course of apprehending after she did not identify herself when asked and began to walk away, PO Arias and PO Berls took \$87(2)(b) to the ground and she landed face-first and hit her lip (Allegations A and B). PO Arias pushed the left side of \$87(2)(b) s face into the ground with her hand (Allegation C). PO Berls pressed his knee into \$87(2)(b) s back and restricted her breathing (Allegation D). § 87(2)(b) screamed, drawing the attention of a small crowd. Police Officers Carmine Taverna and Robert Carbone, also of TD30 arrived and assisted PO Berls to handcuff § 87(2)(b) and bring her to her feet. PO Berls carried § 87(2)(b) the stairs, out of the station, and placed her in the police car parked outside. As PO Berls put s seatbelt on, he pressed his forearm into her throat, restricting her breathing (also Allegation D). PO Berls drove to the stationhouse, PO Arias sat in the passenger seat, and PO Taverna sat beside § 87(2)(b) in the backseat. PO Berls swerved the car, causing § to hit her head on the window (Allegation E). When they arrived at the precinct stationhouse, PO Berls placed his forearm against \$37(2)(b) station station station house, restricting her breathing, as he unbuckled her seatbelt (also Allegation D). was placed in a holding cell for approximately two hours before her mother, § 87(2)(b) arrived. §87(2)(6) was placed in an ambulance and admitted to the emergency room at § 87(2)(b) at § 87(2)(b) treated for wrist pain, and released back into police custody at § 87(2)(b) PO Arias was treated at § 87(2)(b) which she sustained from falling on the platform when trying to apprehend §87(2)(b) No video footage was obtained that captured this incident. **Mediation, Civil and Criminal Histories** Mediation was not offered to §87(2)(b) because she was arrested. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] From receipt of a FOIL request sent to the City of New York Comptroller's office on June 30, 2017, it was determined no notice of claim was filed in relation to this incident.

Civilian and Officer CCRB Histories

•	This is the first CCRB	complaint of which § 87(2)(8	is listed	as a victim.

has been listed as a victim in five previous CCRB complaints. 887(2)(b)

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§ 87(2)(b)

- In the course of her sixteen-year tenure with the NYPD, PO Arias has been the subject of one prior CCRB complaint in which both the allegations were exonerated.
- In the course of his eleven-year tenure with the NYPD, PO Berls has been the subject of two CCRB complaints, of which one allegation was unfounded, one exonerated, and one administratively closed.

Findings and Recommendation

Allegations Not Pleaded
§ 87(2)(g)
9 01 (2)(9)
Allegation A – Force: Police Officer Kathi Arias used physical force against §87(2)(b)
at the intersection of Flatbush Avenue and Fulton Street.
Allegation B – Force: Police Officer Ryan Berls used physical force against §87(2)(b)
at the intersection of Flatbush Avenue and Fulton Street.
In \$87(2)(b) s account, she crawled under the turnstile, saw PO Berls and PO Arias
on the platform and walked downstairs. After a back and forth about providing identification,
both officers took hold of her arms, and she moved around, asked the officers what they were
doing, to get off her, and told them she did not do anything wrong. The officers told
\$87(2)(b) to put her hands behind her back. She told them no and tightly held her forearms
together in front of her. PO Berls twisted one of \$87(2)(b) s arms back. \$87(2)(b)
asked him to stop, and he told her to put her hands behind her back. PO Berls and PO Arias,
holding \$87(2)(b) by the arms, pushed her down to the floor and she landed face first and
hit her lip; she laid face-down on the platform. According to her medical records, §87(2)(b)
never complained of pain to her lip. §87(2)(b) s mugshot photograph, taken two hours after
her apprehension, does not show evidence of swelling or bruising to her lip (Board Review 02).
PO Arias stated the officers asked \$87(2)(b) first for I.D. and then asked how old
she was three times. PO Arias intended to possibly issue § 87(2)(b) a summons if she
provided I.D. When \$87(2)(b) began to walk away and PO Arias took hold of one of her
arms, \$87(2)(b) jerked her arm away, which caused PO Arias to lose her footing and fall to
the ground, landing on her knee. PO Arias pulled \$87(2)(b) to the ground by her right arm
and PO Berls assisted in bringing her to the ground, holding \$87(2)(b) s left arm. PO Arias
did not see how PO Berls took her to the ground. §87(2)(b) landed on her left side and PO
Arias "sort of cradled" her as she landed. PO Arias did not believe her head or lip made contact
with the ground. § 87(2)(b) later complained during the car ride that the officers had "busted
[her] lip." PO Arias told \$87(2)(b) nothing was wrong with her lip, and \$87(2)(b)
began biting her lip.
PO Berls stated \$87(2)(b) did not say anything before she began to walk away and
made it about five feet from the officers. §87(2)(b) screamed and said things like "fuck
you," and "what are you doing?" Upon apprehension, PO Berls told \$87(2)(b) to stop
resisting and said something like "we need your hands." PO Berls held of one of
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s arms and PO Arias held her other arm toward her shoulder. PO Berls initially said
PO Arias lost her balance and fell on her knee as they brought [887(2)(b)] to the ground and
then said both he and PO Arias brought \$87(2)(b) to the ground after she resisted for about
thirty seconds, and that it was a joint effort the officers did not communicate about. PO Berls said
with tracks and moving trains on both sides of the platform they were standing on, he brought
to the ground for her safety. §87(2)(b) landed on her chest with her hands
clenched in front of her. PO Berls said \$87(2)(b) s head did not make contact with the
ground but the side of her head might have.
PO Taverna, who rode in the car and sat next to \$87(2)(b) in the backseat, said \$37(2)(b)
bit her lip in the course of screaming but did not remember why she did this or
whether she complained of pain to her lip.
NYPD Patrol Guide Procedure 221-01 states that force may be used to prevent escape
from custody and that any use of force must be reasonable under the circumstances. In
determining whether the use of force is reasonable, members of service should consider: the
nature and severity of the crime/circumstances; immediacy of the perceived harm to the subject
members of service or bystanders; whether the subject is actively resisting custody; whether the
subject is attempting to evade arrest by flight (Board Review 01).
§ 87(2)(g)
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§ 87(2)(g)
Allegation C – Force: Police Officer Kathi Arias used physical force against \$8720
Allegation C – Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street.
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Allegation C – Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street. In \$87(2)(b)
Allegation C – Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street. In \$37(2)(5) In a saccount, she saw either PO Carbone or PO Taverna run downstairs and approach her almost immediately after PO Arias and PO Berls took her to the ground. PO Arias pressed the left side of \$37(2)(5) In a said \$37
Allegation C – Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street. In street. In street is account, she saw either PO Carbone or PO Taverna run downstairs and approach her almost immediately after PO Arias and PO Berls took her to the ground. PO Arias pressed the left side of street into the ground with her open-palmed hand on the right side of her face and applied continuous pressure for a couple of seconds. PO Arias said street into the ground with her open-palmed hand on the right side of her face and applied continuous pressure for a couple of seconds. PO Arias said street is street into the ground with her open-palmed hand on the right side of her face and applied continuous pressure for a couple of seconds. PO Arias said street is street into the ground on the ground and said she could not breathe. PO Arias denied placing her hand on street is shead for any reason but to move her hair away from her mouth. PO Berls did not see PO Arias place her hand on street into the ground with her open-palmed hand on the right side of the ground and said she could not breathe. PO Arias denied placing her hand on street into the ground with her open-palmed hand on the right said said she could not breathe. PO Arias denied placing her hand on street into the ground with her open-palmed hand on the right said said she could not breathe. PO Arias denied placing her hand on street into the ground with her open-palmed hand on the right said said she could not breathe.
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Allegation C – Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street. In \$87(2)(0)
Allegation C – Force: Police Officer Kathi Arias used physical force against (1970) at the intersection of Flatbush Avenue and Fulton Street. In (1970) s account, she saw either PO Carbone or PO Taverna run downstairs and approach her almost immediately after PO Arias and PO Berls took her to the ground. PO Arias pressed the left side of (1970) Arias pressed the left side of (1970) s face into the ground with her open-palmed hand on the right side of her face and applied continuous pressure for a couple of seconds. PO Arias said (1970) began to scream as soon as landed on the ground and said she could not breathe. PO Arias denied placing her hand on (1970) s head for any reason but to move her hair away from her mouth. PO Berls did not see PO Arias place her hand on (1970) s head and push it into the ground. PO Berls, at that time, had placed both of his knees on the backs of (1970) s thighs as leverage to pull her arms out from under her and denied placing his knee into (1970) s back. When PO Carbone and PO Taverna ran downstairs, they saw PO Arias and PO Berls on
Allegation C – Force: Police Officer Kathi Arias used physical force against at the intersection of Flatbush Avenue and Fulton Street. In social saccount, she saw either PO Carbone or PO Taverna run downstairs and approach her almost immediately after PO Arias and PO Berls took her to the ground. PO Arias pressed the left side of social saccount in the ground with her open-palmed hand on the right side of her face and applied continuous pressure for a couple of seconds. PO Arias said social social began to scream as soon as landed on the ground and said she could not breathe. PO Arias denied placing her hand on social shead for any reason but to move her hair away from her mouth. PO Berls did not see PO Arias place her hand on social shead and push it into the ground. PO Berls, at that time, had placed both of his knees on the backs of social shead and push it into the ground. PO Berls at that time, had placed both of his knees on the backs of social shead and PO Berls on the ground and social social shead and PO Taverna ran downstairs, they saw PO Arias and PO Berls on the ground and social social social social shear and social shead and post it into shead social shead and post it into the ground. PO Berls are arms out from under her and denied placing his knee into social shear.
Allegation C – Force: Police Officer Kathi Arias used physical force against (1970) at the intersection of Flatbush Avenue and Fulton Street. In (1970) s account, she saw either PO Carbone or PO Taverna run downstairs and approach her almost immediately after PO Arias and PO Berls took her to the ground. PO Arias pressed the left side of (1970) Arias pressed the left side of (1970) s face into the ground with her open-palmed hand on the right side of her face and applied continuous pressure for a couple of seconds. PO Arias said (1970) began to scream as soon as landed on the ground and said she could not breathe. PO Arias denied placing her hand on (1970) s head for any reason but to move her hair away from her mouth. PO Berls did not see PO Arias place her hand on (1970) s head and push it into the ground. PO Berls, at that time, had placed both of his knees on the backs of (1970) s thighs as leverage to pull her arms out from under her and denied placing his knee into (1970) s back. When PO Carbone and PO Taverna ran downstairs, they saw PO Arias and PO Berls on

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§ 87(2)(g)
Allegation D – Force: Police Officer Ryan Berls restricted 887(2)(5)
breathing at the intersection of Flatbush Avenue and Fulton Street and at the Transit
Bureau District 30 stationhouse.
said PO Berls placed his knee on her back for a couple of seconds while
trying to retrieve her arms. [87(2)(5)] said she could not breathe under the weight of PO
Berls' knee on her back; she yelled that she couldn't breathe and for the officers to "please stop"
continuously throughout the incident while moving her body and clenched her arms against her
chest. Then, \$87(2)(b) alleged that as PO Berls put on her seatbelt, he placed his left
forearm against her throat and restricted her breathing by placing continuous pressure on her
throat for five seconds as he buckled \$87(2)(b) seems seems seatbelt. \$87(2)(b) told him she
could not breathe and to please let go. During the ride, \$87(2)(b) said she argued with PO
Arias, PO Berls, and PO Taverna. When they arrived at the transit stationhouse PO Berls placed
his forearm against her throat again and placed continuous pressure on it for about five seconds as
he unbuckled her seatbelt.
In the subway station, PO Arias said § 87(2)(b) began to scream as soon as she
landed on the ground. PO Arias told \$87(2)(b) to stop screaming and moved her hair away
from her face. PO Arias did not see PO Berls place his knee into \$87(2)(6) seeks back. PO
Arias did not see PO Berls put \$87(2)(b) see seatbelt on or take it off.
PO Berls said he put his knees against \$87(2)(b) s legs, not her back.
PO Berls, PO Carbone, and PO Taverna did not remember \$67(2)(0) say she could
not breathe at any point, but all of the officers said §87(2)(b) screamed continuously and
did not respond in any way to their verbal attempts to calm her.
During the vehicle transport, PO Berls initially said he held \$87(2)(b) down while
PO Taverna buckled her in and later said he did not know whether any officer needed to hold
against the seat while she was being buckled in or unbuckled. PO Berls denied
placing his forearm against \$87(2)(b) strong buckled in of unbuckled. To Bellis defined
seconds while buckling or unbuckling her.
PO Carbone, who only saw \$87(2)(b) buckled in, said PO Berls placed his hand
on her top-right shoulder to hold her against the seat as he seat-belted her; PO Carbone did not
see PO Berls place his forearm against her throat.
PO Taverna said PO Berls placed \$87(2)(b) into the seat, and placed one of his
forearms against \$87(2)(b) shoulder, holding her against the seat of the car while he used
his other arm to pull the seatbelt across \$87(2)(b) s chest and buckle it. PO Taverna did not
see PO Berls place his forearm against her throat at any point.
All of the officers said \$87(2)(b) continued to kick, scream, and curse while being
placed into the car and all officers except PO Carbone, who did not ride in the car, said she
continued this behavior during the drive and upon arrival to the stationhouse, including, at one
the seat with his forearm and rolled the window up.
point partially rolling down the window. PO Taverna reached over her, held her shoulder against the seat with his forearm and rolled the window up.

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§ 87(2)(g)			
	Force: Police Officer R		against a vehicle.
§ 87(2)(b)		ring the drive to the transit hit her head against the w	
"stupid" for ma	king a "big scene" and sl	ne called him "stupid" for	"what [he] did to her."
			de of the car in any way; PO
	erna denied PO Berls did		e her slam against the insides of
§ 87(2)(g)			
Squad: 14			
Squaa. 14			
Investigator:	g: .	D'.	
	Signature	Print	Date
Squad Leader:			
	Title/Signature	Print	Date
Reviewer:			
•	Title/Signature	Print	Date

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